

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jay Charles Panning,

Plaintiff,

v.

County to State,

Defendant(s).

Case No. 0:20-cv-2043 (PAM/KMM)

**REPORT AND
RECOMMENDATION**

The Court issues this Report and Recommendation to recommend that Plaintiff Jay Panning's Complaint be dismissed for failure to prosecute.

On September 23, 2020, Mr. Panning filed a Complaint in which he names "County to State" as the defendant. [ECF No. 1]. Mr. Panning received a copy of a summons on October 23, 2020, and a copy was again mailed to him on November 9, 2020. On November 4, 2020, Mr. Panning mailed two copies of a handwritten notice to the Court which contained the words, "Nature of suit," and a list of at least 23 causes of action, damage claims, and general topic areas. [ECF Nos. 7–8].

On March 2, 2021, noting there had been no indication Mr. Panning had served any defendant with a summons, the Court issued an order pursuant to Federal Rule of Civil Procedure 4(m) ordering Mr. Panning to either prove he had timely effected service or show cause as to why this matter should not be dismissed for

failure to do so. [ECF No. 9]. Mr. Panning has not made either showing or otherwise responded to the Court.

Where a plaintiff has not shown good cause for failure to serve a defendant, Rule 4(m) provides that the Court “must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Because Mr. Panning has not shown cause and has not had any engagement with his case since November 4, 2020, the Court concludes that dismissal of this action under Rule 4(m) is proper. *See Drexler v. County of Dakota*, 12-cv-505 (PJS/JJK), 2012 WL 5415589 (D. Minn. Oct. 12, 2012) (recommending dismissal where plaintiff failed to respond to order to show cause), *report and recommendation adopted*, 12-cv-505 (PJS/JJK) 2012 WL 5417459 (D. Minn. Nov. 6, 2012).

For the foregoing reasons, the Court recommends that Mr. Panning’s Complaint [ECF No. 1] be **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

Date: June 10, 2021

s/ Katherine Menendez
Katherine Menendez
United States Magistrate Judge